

PUBLIC SERVICE BILL 1996

EXPLANATORY NOTES

Objectives of the legislation

The objectives of the Bill are:

- (a) to establish the public service as an apolitical entity responsive to Government needs and competent to provide services in a professional and non-partisan way;
- (b) to provide for the administration of the public service and the management and employment of public service employees;
- (c) to provide for the appointment of a public service commissioner and the functions and powers of the commissioner;
- (d) to promote among public service employees a spirit of service to the community;
- (e) to provide principles on which departments are to be administered;
- (f) to maintain integrity and appropriate standards of conduct for public service employees; and
- (g) to state the rights and obligations of public service employees.

Reasons for the Bill

It is recognised that legislation presently governing the Queensland Public Service is in need of urgent reform. In this regard, it is proposed to introduce a new Public Service Bill and repeal the principal legislation of the *Public Service Management and Employment Act 1988* and the *Public Sector Management Commission Act 1990*.

The Public Service Bill will strengthen the Queensland Public Services' ability to meet its diverse objectives, to improve service delivery, formally create the Office of the Public Service, allow greater flexibility and innovation in departments by removing unnecessary and burdensome procedural requirements and by devolving authority to chief executives, whilst maintaining uniform and equitable principles across the public service.

Ways in which the objectives are to be achieved

The Public Service Bill will establish a framework of flexibility and devolution of comprehensive human resource management and employment authorities to agencies.

The major features of this framework are:

- the ability for chief executives to determine employee numbers and classification levels;
- enabling greater mobility provisions and capacity to transfer employees;
- increased client and community focus; and
- the establishment of the Office of the Public Service, headed by a commissioner, who will have less intrusive powers than a commissioner under the *Public Sector Management Commission Act 1990*, but will possess sufficient power and authority to ensure that the objectives of the Public Service Act are given effect by all public service agencies.

Alternatives to the Bill

An alternative option considered to the enactment of a new Public Service Act was to amend and enhance the current legislation, including the *Public Service Management and Employment Act 1988* and the *Public Sector Management Commission Act 1990*, to address the deficiencies and problems of that legislation. However, this option has not been adopted, as it would not overcome the complexity and the overly prescriptive nature of that legislation.

Administrative cost to Government

It is envisaged that there is a potential for enormous cost savings to be realised in the Queensland Public Service with the enactment of the Public Service Act and the repeal of much of the existing public service management and employing legislation. This will be achieved as a consequence of:

- the devolution of authority in human resource management and employment matters to agencies;

- the removal of the unnecessary and burdensome procedural and administrative requirements currently in existence;
- the phasing out of level 1 of the Senior Executive Service, thereby reducing the number of government owned vehicles used for private use; and
- increased authority to deploy surplus employees across the public service.

Consistency with fundamental legislative principles

The Bill is generally consistent with fundamental legislative principles.

The Public Service Commissioner is granted a relatively broad power of delegation under clause 40(1) with respect to the Commissioner's powers under Part 7 (Appeals).

The width of the delegation in this Part is to enable retired public servants to sit on appeals as delegates of the Commissioner, particularly in instances where conflicts of duty and interest could arise with serving public servants.

The Bill has been drafted to be broadly consistent with contemporary public service legislation in force elsewhere in Australia.

The Bill recognises both the traditional concept of a permanent professional public service in the Westminster tradition up to the senior executive level, and the traditional rights of the Crown as employer as embodied in the common law.

Whilst the Bill allows greater discretion to line departments, it nevertheless still empowers the Public Service Commissioner to oversee the operations of the public service to ensure that the principles of public service management and employment set out in Part 3 are being given effect to.

Moreover, although the Bill introduces a contract based senior executive service, it does so on a prospective basis only, so that existing senior executives are not deleteriously affected.

The abolition of the SES 1 level will not apply to existing SES 1 officers, with their rights and entitlements specifically recognised by clause 125.

Although the appeal provisions are streamlined, this will ensure that appeals are heard in a more expeditious manner, with frivolous and

vexatious appeals being appropriately dealt with. The right of public servants to lodge protective appeals, will again be recognised.

Unlike the existing law, an officer suspended from duty is entitled to full remuneration unless otherwise determined (clause 92), and ordinary tenured public servants continue to be governed and protected by the provisions of the *Industrial Relations Act 1990*.

Accordingly the Bill is intended to provide a framework which balances the rights of employees, the obligations of the Crown as employer and service provider and the needs and expectations of the community.

Consultation

The proposed new Public Service Bill has been discussed in broad terms with all government agencies, chief executives, directors of human resource management areas in agencies, the State Public Services Federation of Queensland and the Queensland Teachers' Union. Advice from Crown Law has been sought on certain aspects of the Bill.

NOTES ON CLAUSES

PART 1—PRELIMINARY

Clause 1 provides the short title of the Bill.

Clause 2 provides that the Act will commence on a date to be fixed by proclamation.

Clause 3 sets out the main objectives of the Bill.

Clause 4 provides in schedule 3 of the Bill a dictionary of terms used throughout the Act.

PART 2—QUEENSLAND PUBLIC SERVICE

Clause 5 defines the Queensland Public Service as consisting of the persons employed under this Act (ie. public service employees).

Clause 6 states that public service employees are employed in departments or public service offices.

Clause 7 defines a department and a public service office.

Clause 8 defines who is a public service officer.

Clause 9 defines who is a public service employee.

Clause 10 states that the Act mainly applies to public service officers. However, some provisions apply to all public service employees and, furthermore, provisions may be applied, in whole or part, to general or temporary employees, or employees of a public sector unit that is not a department or public service office.

Clause 11 sets out those offices and categories of employment to which this Act does not apply.

Clause 12 provides that departments are those entities declared to be so by the Governor in Council by gazette notice.

Clause 13 sets out the powers of the Governor in Council in regard to the establishment, amalgamation, addition, division, naming, renaming and abolition of departments or other government entities.

Clause 14 sets out the powers of the Governor in Council in regard to the declaration of the functions of a department or other government entity.

Clause 15 sets out the powers of the Governor in Council in regard to the giving, changing, discontinuing or transferring of functions to a department or other government entity.

Clause 16 sets out the additional powers that the Governor in Council has, by gazette notice or regulation, in regard to enabling, carrying out or giving effect to the provisions of Division 2 (clauses 12 to 16) of the Act.

Clause 17 provides that the entities specified in column 1 of schedule 1 are public service offices.

Clause 18 provides that the heads of the public service offices listed in schedule 1 are as specified in column 2 of that schedule.

Clause 19 applies this Act and other Acts to public service offices and its public service employees as if the office were a department and its head were the chief executive of the department.

Clause 20 defines what is a public sector unit.

Clause 21 defines what is a government entity.

Clause 22 provides for the application of a provision of this Act by regulation to an employee of a public sector unit who is not a public service employee.

PART 3—PRINCIPLES OF PUBLIC SERVICE MANAGEMENT AND EMPLOYMENT

Clause 23 sets out the principles of public service management.

Clause 24 sets out the principles of public service employment.

Clause 25 sets out the principles of work performance and personal conduct of public service employees.

Clause 26 sets out additional principles applying to the senior executive service.

PART 4—ADMINISTRATION OF THE PUBLIC SERVICE

Clause 27 sets out the functions of the Premier in relation to the public service.

Clause 28 enables the Premier to require a chief executive to provide a report about specific aspects of that chief executive's department with regard to the application of the principles of public service management and employment.

Clause 29 enables the Premier to authorise a person to conduct a review of the functions or activities of a public sector unit. The Premier may inform the departmental Minister and the relevant chief executive about the review, and invite the chief executive to nominate participants in the review. This clause also sets out the powers of the person authorised to conduct the review and other obligations placed on employees in the conduct of the review.

Clause 30 enables the Premier to fix the maximum number of public service employees, other than those in the senior executive service, that may be employed in a department for the effective, efficient, economical and appropriate performance of the department's functions. The chief executive of the department must comply with a notice given by the Premier fixing the number of employees in the chief executive's department.

Clause 31 enables the Premier to direct a chief executive to take action in accordance with a ruling of the commissioner in regard to the number of public service employees in the chief executive's department.

Clause 32 provides that there is to be a Public Service Commissioner (the "commissioner") and establishes the Office of the Public Service. The office consists of the commissioner and the employees of the office; such employees being employed under this Act.

Clause 33 sets out the functions of the commissioner.

Clause 34 provides that the commissioner (and the Minister for Training and Industrial Relations for "prescribed entitlements" as provided for under the Act) may issue directives, by gazette notice, and guidelines; a directive being binding and a guideline being for guidance. This clause also sets out those areas for which the commissioner may issue directives and guidelines.

Clause 35 requires the commissioner to act independently, impartially, fairly and in the public interest in performing the commissioner's functions.

Clause 36 states that the commissioner must provide an annual report to the Premier about the performance of the commissioner's functions within 4 months after the end of each financial year. The Premier must table a copy of the report in the Legislative Assembly within 14 days of receiving it.

Clause 37 provides the capacity for the commissioner to provide a report to the Premier, or for the Premier to ask the commissioner to provide a report, about any issues relevant to the commissioner's functions.

Clause 38 states that the commissioner is to be appointed by the Governor in Council by gazette notice.

Clause 39 sets out the basis of employment of the commissioner, by a written contract approved by the Governor in Council and made between the commissioner and the Premier, and specifies certain terms and conditions which must be contained in the contract.

Clause 40 enables the commissioner to delegate the commissioner's powers, other than for the issuing of directives and guidelines, to a person (for powers under part 7—Appeals) or to a public service employee (for all other powers).

Clause 41 enables the Premier to appoint a person to act as commissioner during a vacancy or when the commissioner is absent from duty or unable to perform the functions of commissioner.

PART 5—STAFFING OF PUBLIC SERVICE

Clause 42 provides that a senior executive service is continued in the public service.

Clause 43 sets out the purpose of the senior executive service.

Clause 44 specifies the composition of the senior executive service.

Clause 45 enables the Governor in Council, by gazette notice, to fix the maximum number and classification levels of senior executives to be employed in a department. The relevant chief executive must comply with such a notice.

Clause 46 requires that each department have a chief executive.

Clause 47 states that chief executives are appointed by the Governor in Council, by gazette notice.

Clause 48 enables the Governor in Council, by gazette notice, to second or revoke the secondments of officers as chief executives.

Clause 49 enables the Governor in Council, by gazette notice, to specify the title for the chief executive of a particular department.

Clause 50 enables the Governor in Council to declare that the holder of a stated office is the chief executive of a stated department, without requiring the application of the chief executive appointment provisions of this Act to the stated office. For example, the transitional provisions of this Act (clause 122) include a specification that the Commissioner of the Police Service is the chief executive of the Department of Police.

Clause 51 sets out the areas of responsibility of the chief executive of a department.

Clause 52 requires a chief executive to observe the principles of public service management and employment; comply with all relevant laws, industrial determinations and directives; and have regard to all relevant guidelines in discharging the chief executive's responsibilities under this or another Act.

Clause 53 sets out the basis of employment of chief executives, by a written contract approved by the Governor in Council and made between the chief executive and the Premier, and specifies certain terms and conditions which must be contained in the contract.

Clause 54 provides that a chief executive, subject to the requirements of another Act, is subject to the directions of the departmental Minister in managing the chief executive's department. Furthermore, it requires that a chief executive must act independently, impartially and fairly in making decisions about particular individuals.

Clause 55 requires a chief executive to provide a statement to the departmental Minister setting out information, required under a directive of the commissioner, about the chief executive's interests. Such a statement is required within 1 month of being appointed and, thereafter, where any change in the chief executive's interests occurs.

Clause 56 sets out certain requirements which must be complied with where a chief executive has an interest that conflicts with, or may conflict with, the discharge of the chief executive's responsibilities.

Clause 57 allows the chief executive to delegate powers under this or another Act to a person, who may then sub-delegate those powers.

Clause 58 enables the departmental Minister to appoint a person to act as chief executive of the department during a vacancy or when the chief executive is absent from duty or unable to perform the responsibilities of the chief executive.

Clause 59 provides that the division (clauses 59 to 62) relating to other senior executives does not apply to chief executives.

Clause 60 provides that the Governor in Council may, by gazette notice, appoint senior executives. This clause also provides that a chief executive may, by gazette notice, appoint senior executives in the chief executive's department.

Clause 61 provides that the Governor in Council may, by gazette notice, second or revoke the secondment of a senior executive. This clause also

provides that a chief executive may, by gazette notice, second or revoke the secondment of a senior executive within the chief executive's department and, with the prior approval of a chief executive of another department, second or revoke the secondment of a senior executive between the departments.

Clause 62 sets out the basis of employment of senior executives, by a written contract approved by the commissioner and made between the senior executive and the chief executive, and specifies certain terms and conditions which must be contained in the contract. This clause also enables, but does not require, a senior executive who is employed on tenure and is transferred or redeployed to enter into a contract with the senior executive's new chief executive.

Clause 63 defines who is a senior officer.

Clause 64 provides that certain provisions of this Act, in relation to decisions against which appeals may not be made, the exclusion of certain matters from review under other Acts, and the non-application of awards and industrial agreements, apply to senior officers in the same way that they apply to senior executives.

Clause 65 provides that the division (clauses 65 to 74) applies to officers, including senior officers, who are not senior executives.

Clause 66 enables a chief executive to determine the number and classification levels of public service employees in the chief executive's department, subject to a notice made by the Premier fixing the maximum number of public service employees that may be employed in the chief executive's department.

Clause 67 provides that a chief executive may appoint officers in the chief executive's department. It also requires a gazette notice of the appointment under certain circumstances.

Clause 68 provides that a chief executive may second or revoke the secondment of an officer within the chief executive's department and, with the prior approval of a chief executive of another department, second or revoke the secondment of an officer between the departments. It also requires a gazette notice of the secondment under certain circumstances.

Clause 69 specifies that an appointment of an officer is to be on tenure, unless subject to a directive of the commissioner and declared by the chief executive to be an appointment on a fixed term contract.

Clause 70 sets out the basis of employment of a person as an officer, appointed on a fixed term contract made between the officer and the relevant chief executive, and specifies that the person's conditions of employment are governed by this Act, a directive of the commissioner and the contract.

Clause 71 sets out the reversion rights of certain officers whose employment under a fixed term contract is terminated other than by disciplinary action, or not renewed or replaced by another contract.

Clause 72 specifies that where a contracted officer accepts employment on tenure, the contract is taken to be terminated and no termination benefits are payable.

Clause 73 enables a chief executive to appoint a person, who is not already an officer or an officer employed on a contract, as an officer on probation for a period of not less than 6 months. This clause also sets out certain actions which the chief executive may take during or at the conclusion of the probationary period.

Clause 74 provides the terms upon which an officer may resign.

Clause 75 sets out the requirements in regard to citizenship or residency which a person must satisfy to be eligible to be appointed as an officer.

Clause 76 states that appointment as an officer is to be on a full-time basis unless declared by the employing authority to be available on a part-time basis.

Clause 77 requires an employing authority to advertise the intention to appoint someone to perform duties as an officer, other than where subject to a directive of the commissioner or for a transfer, redeployment or secondment made under a provision of this or another Act.

Clause 78 specifies that the selection of an eligible person for appointment as a public service employee must only be on the basis of merit. This clause also sets out the matters which must be taken into consideration in determining the relative merits of applicants, and those instances in which merit selection does not have to apply.

Clause 79 provides that the Governor in Council may, by gazette notice, transfer senior executives. This clause also provides that a chief executive may transfer an officer within the chief executive's department and, with the prior approval of a chief executive of another department, transfer an officer between the departments.

Clause 80 enables an officer to establish reasonable grounds for refusing a transfer to the satisfaction of the relevant employing authority, and sets out actions which the employing authority may take if those grounds are either accepted or not accepted by the employing authority.

Clause 81 requires that a chief executive comply with a directive of the commissioner where it is believed that there are public service employees surplus to the needs of the chief executive's department.

Clause 82 enables a chief executive to enter into an agreement with the appropriate authority of another jurisdiction, public entity or any other entity in relation to the work performance or interchange of a public service employee, with the consent of the employee.

Clause 83 enables a chief executive to direct a public service employee to provide a statement to the chief executive, or the chief executive's nominee, setting out information, required under a directive of the commissioner, about the employee's interests. Such a statement is required within a stated time after appointment and, thereafter, where any change in the employee's interests occurs.

Clause 84 sets out certain requirements which must be complied with where a public service employee (other than a chief executive) has an interest that conflicts with, or may conflict with, the discharge of the employee's duties.

Clause 85 enables the appropriate employing authority to require a public service employee to undergo a medical examination under certain circumstances. This clause also enables the appropriate employing authority, after considering the medical report, to take certain action in respect of the public service employee.

Clause 86 sets out the conditions upon which an officer or general employee may retire from the public service.

PART 6—DISCIPLINARY ACTION

Clause 87 enables an employing authority to discipline an officer under certain circumstances.

Clause 88 sets out the disciplinary actions that an employing authority may take, or order to be taken, in disciplining an officer, subject to the employing authority considering such action to be reasonable and in compliance with any directive of the commissioner.

Clause 89 enables an employing authority to suspend, or cancel the suspension of, an officer under certain circumstances.

Clause 90 requires an employing authority, in disciplining or suspending an officer, to comply with the requirements of this Act, a directive of the commissioner and, where suspension is not on full pay, the principles of natural justice.

Clause 91 requires an employing authority to provide written notice to an officer, containing specified information, where that officer is being suspended or the officer's employment terminated.

Clause 92 provides that a suspended officer is entitled to full pay during the period of that officer's suspension, unless otherwise decided by the relevant employing authority. This clause also provides that, following the cancellation of a suspension order, an officer who has been suspended without full pay may, upon resuming duties, be entitled to be paid remuneration as prescribed by the commissioner for the period of the suspension.

PART 7—APPEALS

Clause 93 provides for certain persons to appeal to the commissioner against certain decisions.

Clause 94 specifies the decisions against which appeals to the commissioner may be made.

Clause 95 specifies the decisions against which no appeal may be made to the commissioner.

Clause 96 specifies the officers or persons who may lodge appeals to the commissioner against certain decisions.

Clause 97 provides that the commissioner may stay the operation of decisions under appeal.

Clause 98 enables the commissioner, subject to certain conditions, to decline to hear appeals. This clause also requires that an appellant demonstrate an arguable case in promotion appeals.

Clause 99 provides that an appeal is by way of review rather than by fresh determination, based on the evidence available at the time to the decision maker, unless the commissioner allows otherwise.

Clause 100 provides for fair but informal procedures by the commissioner, observing the principles of natural justice.

Clause 101 allows the commissioner to decide procedures for the hearing of an appeal, subject to certain requirements.

Clause 102 specifies who may and may not appear before the commissioner.

Clause 103 provides the powers the commissioner may use in hearings appeals.

Clause 104 provides what action the commissioner may take in deciding an appeal.

Clause 105 enables an appeal to be reopened, where the commissioner is satisfied that there are compelling reasons.

Clause 106 provides for the jurisdiction of the Industrial Relations Commission to hear certain appeals and the prevention of jurisdiction shopping.

Clause 107 provides for the protection of rights of appointees subject to a promotion appeal.

PART 8—REMOVAL OF STATUTORY OFFICE HOLDERS WHO ARE TERM APPOINTEES

Clause 108 defines what is a statutory office.

Clause 109 defines who is and who is not a term appointee.

Clause 110 provides for the removal of term appointees, despite another Act or the conditions of the term appointee's appointment or contract.

Clause 111 provides for the re-employment of a removed term appointee who was an officer in continuous employment for at least 5 years prior to the appointment to the statutory office. In such circumstances, the person is not entitled to compensation for being removed from the statutory office. This clause also provides for persons, without a re-employment right, to claim all compensation and other entitlements under the conditions of the person's employment or contract of employment, as if the person had been terminated as permitted under those conditions.

PART 9—GENERAL AND TEMPORARY EMPLOYEES

Clause 112 provides that a chief executive may employ general employees to perform work of a type not ordinarily performed by an officer, subject to a directive of the commissioner.

Clause 113 provides that a chief executive may employ temporary employees to perform work of a type ordinarily performed by an officer, subject to a directive of the commissioner.

Clause 114 enables the commissioner, by directive, to apply a provision of this Act to general and temporary employees.

PART 10—MISCELLANEOUS

Clause 115 specifies that this Act binds the Crown, provides for an employing authority to employ a person as an agent of the Crown and acknowledges the right of the Crown recognised at common law. The common law right referred to in subclause (3), which is not abrogated or restricted by this Act, is explained and supported in the following Australian cases: *Ryder v Foley* (1906) 4 CLR 422; *Carey v Commonwealth* (1921) 30 CLR 422; *Kaye v Attorney-General for Tasmania* (1956) 94 CLR 193 at 203; and *Scott v Commonwealth* (1982) 41 ALR 498 at 503-504. It is also supported by numerous English and New Zealand cases, for example:

Shenton v Smith [1895] AC229; *Rodwell v Thomas* [1944] KB 596; and *Deynzer v Campbell* [1950] NZLR 790 at 810-811.

Clause 116 provides a definition of excluded matter and sets out the contexts whereby such matter is to be excluded.

Clause 117 specifies that the *Industrial Relations Act 1990* applies to public service employees, subject to certain sections of this Act.

Clause 118 provides that an agreement made under part 11 of the *Industrial Relations Act 1990* prevails over certain directives, to the extent of any inconsistencies between them.

Clause 119 provides that the Governor in Council may make regulations under this Act with respect to certain matters.

PART 11—TRANSITIONAL PROVISIONS, REPEALS AND AMENDMENTS

Clause 120 provides for the continued recognition of existing departments under this Act for up to one year from this Act's commencement.

Clause 121 provides for the continued recognition of existing units of the public sector under this Act for up to one year from this Act's commencement.

Clause 122 provides for the continuation of the appointments, including acting appointments, or secondments of current chief executives under this Act for the remainder of the chief executive's term, and requires that a chief executive must comply with the requirements of this Act in regard to the declaration of the chief executive's interests within a certain period. The clause also provides for the continuation of chief executive titles and delegations in existence before the commencement of this Act.

Clause 123 validates as lawful and effective any authorisation by a relevant Minister of a person, who was not an officer, under the *Public Service Management and Employment Act 1988*, to act as a chief executive.

Clause 124 provides that the Director-General, Office of the Public Service is taken to have been appointed as commissioner under this Act.

Clause 125 provides for the phasing out of Senior Executive Service level 1 (SES 1) and for the continuation of the appointment or secondment of persons at SES 1, until the person ceases to be an officer or to perform duties at SES 1 or senior officer levels, or the secondment ends. This clause also provides for the maintenance of minimum entitlements of a person who, whilst seconded to SES 1, is promoted as an officer on tenure to perform the same, or substantially the same, duties as they were performing whilst on secondment.

Clause 126 provides for the continuation of the appointment or secondment of persons as senior executives (other than as chief executives). This clause does not require an existing senior executive service officer (other than a chief executive) to enter into a contract with the relevant chief executive in relation to the executive's current level of senior executive service appointment or secondment.

Clause 127 provides for the continuation of employment, as officers, of persons appointed as officers under the *Public Service Management and Employment Act 1988*, and enables a chief executive, where doubt about employment status exists, to declare that a person is an officer for the purposes of this Act. This clause also provides for the employment and conditions of employment of officers to be unaffected by the discontinuance of public service positions.

Clause 128 provides that an officer, on initial appointment probation at the commencement of this Act, shall continue on the probationary requirements applicable to them under the *Public Service Management and Employment Act 1988*.

Clause 129 provides that an officer, on promotion probation at the commencement of this Act, shall continue on the probationary requirements applicable to them under the *Public Service Management and Employment Act 1988*.

Clause 130 provides for contracts of employment for persons (other than chief executives) made under the *Public Service Management and Employment Act 1988* to be taken as contracts under this Act. Where such a person was an officer, the contract is taken to be for a fixed term.

Clause 131 specifies that a person engaged under the *Public Service Management and Employment Act 1988*, other than an officer, in a position of a kind ordinarily held by a person who is not an officer, is taken to be a general employee under this Act. This clause also enables a chief executive,

where doubt exists, to declare that a person is a general employee for the purposes of this Act.

Clause 132 specifies that a person engaged under the *Public Service Management and Employment Act 1988*, other than an officer, in a position of a kind ordinarily held by a person who is an officer, is taken to be a temporary employee under this Act. This clause also enables a chief executive, where doubt exists, to declare that a person is a temporary employee for the purposes of this Act.

Clause 133 provides for the continuation of standards and Governor in Council determinations in existence before the commencement of this Act, as if they were rulings under this Act. The clause also specifies that a reference in a standard to a public sector employee is to be taken as including a reference to an employee of a public sector unit under this Act.

Clause 134 provides that disciplinary actions and suspensions, begun under the *Public Service Management and Employment Act 1988* before the commencement of this Act, may be finished under that Act, as if that Act had not been repealed. This clause also extends the disciplinary provisions of this Act to acts and omissions that happened before or after this Act's commencement.

Clause 135 provides for appeals lodged and not decided under the *Public Sector Management Commission Act 1990* to be heard and decided by the commissioner, as if the commissioner were the commissioner for public sector equity and that Act had not been repealed. This clause also provides an entitlement for persons with a right of appeal under the *Public Sector Management Commission Act 1990* to have the appeal heard and decided under this Act. This clause also sets out certain matters with regard to deciding an appeal under this clause by the commissioner.

Clause 136 specifies that part 8 of this Act, which relates to the removal of statutory office holders who are term appointees, applies to term appointees appointed before or after the commencement of this Act.

Clause 137 provides that regulations under the *Public Service Management and Employment Act 1988* or the *Public Sector Management Commission Act 1990* in existence immediately before the commencement of this Act, remain in force under this Act, with necessary changes made for consistency. The clause also specifies that a reference in a regulation under the *Public Sector Management Commission Act 1990* to a public

sector employee is to be taken as including a reference to an employee of a public sector unit.

Clause 138 provides that a reference to the *Public Sector Management Commission Act 1990* in an Act or document may, if the context permits, be taken as a reference to this Act.

Clause 139 provides that a reference to the *Public Service Management and Employment Act 1988* in an Act or document may, if the context permits, be taken as a reference to this Act.

Clause 140 provides that a reference to the chair of the public sector management commission, the commissioner for public sector equity or a member of the public sector management commission in an Act or document may, if the context permits, be taken as a reference to the commissioner.

Clause 141 provides that a reference to the public sector management commission in an Act or document may, if the context permits, be taken as a reference to the office of the public service.

Clause 142 provides that a reference to a standard under the *Public Sector Management Commission Act 1990* in an Act or document may, if the context permits, be taken as a reference to a ruling of the commissioner.

Clause 143 provides that a reference to a unit of the public sector under the *Public Sector Management Commission Act 1990* in an Act or document may, if the context permits, be taken as a reference to a public sector unit.

Clause 144 provides that a reference to a department specified in schedule 1 of the *Public Service Management and Employment Act 1988* in an Act or document may, if the context permits, be taken as a reference to an entity that is a department under this Act.

Clause 145 provides that a reference to a permanent head of a department in an Act or document may, if the context permits, be taken as a reference to a chief executive of the department.

Clause 146 repeals certain Acts.

Clause 147 amends the *Constitution Act 1867* by omitting section 14(1) and deleting reference to section 14 where mentioned in section 53(1) of that Act.

Clause 148 provides that schedule 2 amends certain Acts.

Schedule 1

Schedule 1 lists the public service offices and the respective heads of those offices.

Schedule 2

Schedule 2 amends certain Acts as a consequence of this Act.

Schedule 3

Schedule 3 provides a dictionary of terms used throughout this Act.